



November 16, 1999

Ms. Kristi DeCluitt  
Assistant City Attorney  
City of College Station  
P.O. Box 9960  
College Station, Texas 77842

OR99-3263

Dear Ms. DeCluitt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129446.

The City of College Station (the "city") received a request for numerous documents relating to a city landfill project.<sup>1</sup> You originally claimed that the requested information is excepted from disclosure under sections 552.103, 552.105, and 552.107 of the Government Code. However, in subsequent correspondence submitted to our office, you indicated that the city no longer reasonably anticipates litigation, and you have withdrawn your claim under section 552.103. You have also withdrawn your section 552.105 claim. Therefore, we have considered only the exception you claim under Government Code section 552.107 and have reviewed the submitted information.

You contend that the highlighted portions of Exhibits B-1 and B-2 are excepted from disclosure under section 552.107. Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. Open Records Decision No. 574 at 5 (1990). Section 552.107(1) does not except purely factual information from disclosure, nor does it protect information gathered by an attorney as a fact-finder. Open Records Decision Nos. 574 (1990), 559 (1990), 462 (1987). Section 552.107(1) does not except from

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<sup>1</sup>You refer to this request as PWKMM Request No. 16.

disclosure factual recounting of events or the documentation of calls made, meetings attended, and memoranda sent. Open Records Decision No. 574 at 5 (1990). We have reviewed Exhibit B-1 and agree that only the information we have marked may be withheld pursuant to section 552.107.

However, the highlighted portion of Exhibit B-2 contains neither legal advice nor the opinion of an attorney. Thus, Exhibit B-2 is not excepted under section 552.107 and must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Carla Gay Dickson".

Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/cwt

Ref: ID# 129446

Encl. Submitted documents

cc: Mr. C.J. Kling  
Payne, Watson, Kling, Miller & Malechek, P.C.  
P.O. Box 6900  
Bryan, Texas 77805-6900  
(w/o enclosures)